

Restriction Requirement Under 35 U.S.C. §§121 and 372

In the January 8, 2008 Office Action, the Examiner stated that restriction to one of the following three (3) groups is required under 35 U.S.C. §§121 and 372:

- I. claims 68-81 drawn to an enriched population of mesenchymal precursor cells, wherein at least 1% of said cells are STRO-1^{bright};
- II. claims 82-95 drawn to differentiated progeny cell, wherein said progeny cell is selected from the group recited in claim 82; and
- III. claims 96-106 drawn to a method of enriching for mesenchymal precursor cells.

In response, applicants elect, with traverse, Examiner's Group I, i.e. claims 68-81 drawn to an enriched population of mesenchymal precursor cells, wherein at least 1% of said cells are STRO-1^{bright}. Applicants traverse the requirement for restriction on the basis that the claims have a common inventive concept in compliance with PCT Rule 13.1. Pursuant to 37 C.F.R. §1.499, Rule 13.1 governs restriction practice in the subject national stage application filed under 35 U.S.C. §371.

The Examiner stated that the invention of group I was found to have no special technical feature over WO/2001/004268. In response, applicants maintain that the invention as claimed in the current application is not disclosed in or obvious over WO/2001/004268. In addition, in accordance with 37 C.F.R. 1.475 (1), there is unity of invention where, as in the present case, the claims are directed to a product and a process specially

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Page 3

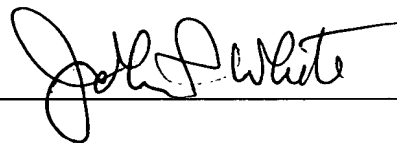
adapted for the manufacture of said product, as set forth in groups I and II, respectively.

Accordingly, applicants respectfully request that the Examiner withdraw this restriction requirement.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee, apart from the total enclosed fee of \$1,115.00 for a five-month extension of time, is deemed necessary in connection with the filing of this Communication. However, if any other fee is required, authorization is hereby given to charge the amount of such additional fee to Deposit Account No. 03-3125.

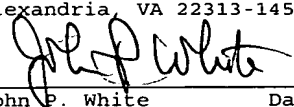
Respectfully submitted,



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